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California Consumers for Freedom of Choice
Written Comments to the California Air Resources Board
Air Cleaner Regulation Draft Concept

January 9, 2007

Introduction

Thank you for the opportunity to participate in this workshop on the development of a regulation to limit the use and emission of ozone from indoor air cleaners. The California Consumers for Freedom of Choice (CCFC) is a diverse group of California consumers from throughout the state concerned over the California Air Resource's Board (CARB) rulemaking process as it affects the rights of consumers to select products emitting ozone from indoor air cleaners. The comments below supplement the oral comments provided at the December 13, 2006 Staff Workshop.

During the past legislative session, we were the California Consumers In Opposition To AB 2276. We became aware of this bill very late in the legislative process; we had been unaware of the bill and its potential impact on consumers. Our fast growing group of thousands upon thousands of the estimated 500,000 or more consumers of a variety of indoor air cleaners/air purification products in the state were concerned over their personal choices in taking care of their Indoor Air Quality for themselves, their families, and in many cases their customers and employees. Through their last minute expressions of opposition to what they believed was "fixing an indoor air problem they did not think existed", they sent in thousands of letters to the Governor, signed petitions containing thousands of names, and flooded the phone lines at the Governor's office urging a veto of AB 2276.

Across the state our members come from all walks of life, both residential and business environments, and with different experiences and concerns. Here are a few illustrations of the concerns of many of our members:

Unbreathable and unlivable environments due to smoke, odors and chemicals from wild fires and other disasters – Many consumers, including the American Red Cross, have successfully used indoor residential air cleaners equipped with optional and scalable ozonation at higher levels to more quickly rid residential and business environments of the odors, chemicals, bacteria and mold related to wild fires, forest fires, as well as other disasters, without any substantiated incident directly related to ozone. In many instances,

had it not been for the optional indoor use of ozone, both residences and businesses would not have been accessible by consumers.

One consumer experienced a inhabitable potential disaster involving his 2 million dollar yacht. He reported that the refrigerator on the yacht malfunctioned, causing several poultry and other meat products to thaw and leak their blood and juices out of the refrigerator down into the walls, cracks and crevices of the boat. The owner was traveling and not aware of this for over two weeks, until a fellow boat owner in the next slip complained of the extreme foul smell. When the owner returned and opened the door to the yacht he found that the smell was so strong that the slip area where his boat was parked had to be evacuated. The owner tried every possible method he could think of to remedy the odor with no success. He had determined that the entire inside of the boat would have to be gutted and rebuilt. As a last option he decided to try an indoor residential air cleaner using an optional ozone feature on high. Within 24 hours the entire smell was gone. Had it not been for the air cleaner equipped with scalable levels of ozone, the consumer may have incurred a financial loss of 1 million dollars!

Maintenance of indoor environments - Consumers have used residential indoor air cleaners equipped with optional and scalable ozonation at lower levels to maintain better indoor air quality by continuously reducing levels of odors, chemicals, bacteria, and mold in their indoor residential and business environments. Many have increased the amount of scalable ozone as needed to more quickly remove and reduce such contaminants.

Day Care for Children and Elderly – Consumers running day care operations as well as assisted living operations have used residential indoor air cleaners equipped with optional and scalable ozonation at low levels during the day, and at higher levels after-hours or in specific non-occupied rooms to sanitize surface germs and bacteria so in the morning attendees could return to a safer and healthier indoor air quality environment. Without this flexibility, these consumers would have to pay to contract out to commercial clean-up/restoration services to constantly bring in commercial grade equipment to accomplish the same results at a higher cost than having a choice of purchasing their own equipment for daily, controllable usage.

Schools with reported mold and bacteria problems – For years consumers, predominantly teachers and concerned parents (in classrooms where school budgets are limited in providing indoor air quality solutions) have used residential indoor air cleaners equipped with optional and scalable ozonation at low levels during the day, and occasionally at higher levels after-hours when the space is non-occupied to sanitize surface germs, mold and bacteria so in the morning, students can return to a safer and healthier indoor air quality environment.

Portable air cleaners – Many of our consumers have been literally freed from being homebound because of sensitivities to chemicals, odors and mold (e.g., multiple chemical sensitivities) found in other indoor environments, such as stores, businesses, doctor's offices, schools, movie theaters, cars, planes, hotels, homes of friends and families, etc.,

through the use of indoor portable purifiers that they wear around their necks, or installed in their cars, or take with them when they travel or stay in hotels. There is significant concern here that these “lifelines” will be seriously impacted because the cleaning technologies use or have ozone as a byproduct. This was dramatically demonstrated at the December 13th Staff Work Shop when the representative from the International Ozone Association used a testing device on one of the portable air purifiers we were wearing around and below our necks because of our personal chemical sensitivities. When the device was placed approximately two inches away from the purifier it registered over 0.05ppm, but when the device was placed approximately 6 to 8 inches away from the purifier and right below the nose, it registered less than 0.05/ppm. As we understand the Staff’s Concept Rule, under the 2 inch test this purifier would have “flunked” and prohibited from sales in California, and likely replacement or warranty sales and service, too! And from what we know about this particular product from Wein Products, Inc. of California, there are over a dozen Peer Review Studies substantiating this product’s claims. Any rule that would result in denying consumers the right and freedom to choose this product or similar portable products for their personal indoor air quality needs is a significant concern to our members.

Recommendations

Despite our concerns over AB 2276, it was signed, and its future is in your hands. And unlike that process where we were late in participation, now we hope our timing is better and we are here to work with the Board to ensure that the Rules that get drafted and submitted for final approval are truly in the best interests of ALL California consumers concerned with their indoor air quality and their indoor air quality product choices.

Given the Board’s broad experience in environmental and air quality issues, clearly you are aware of the significant shortcomings of the current legislative mandate conferred upon you. Of the many legislative proposals from past sessions covering indoor air quality issues, AB 2276 is one of the most narrowly drawn in terms of addressing the myriad of indoor air quality issues confronting policy makers and consumers in the state. The Board and Staff’s mission here is made even more difficult because of the inability to address in these proceedings the make-up of indoor air quality and permissible levels of known airborne and surface contaminants impacting our indoor environments (in residential, business, commercial, school, transportation, entertainment, recreational, governmental and mobile or temporary environments), regardless of the originating sources (indoor, outdoor, local, state, country, international, etc.). Instead, your mission is limited to one single source for purifying indoor airborne and surface contaminants (ozone) in a single type of consumer product (residential, non-filter air cleaners), a proven cleaning source created by nature, and develop a regulation that must serve the best interests of California consumers seeking to protect their indoor air environments from known and unknown contaminants entering their indoor air from all potential sources for decades to come.

This will be another formidable task that the Governor and Legislature on behalf of the people of California have empowered the Board and Staff to resolve. Based on our prior participation in the legislative process surrounding AB 2276 as well as the December 13th, 2006 Staff Workshop, this will not be an easy task as there are competing interest groups as stakeholders here, many with *very narrow agendas* that may not serve the best interests of California consumers in their optional choices for individualized indoor air purification product solutions.

As we comment more fully below, our guiding recommendations to the Board and Staff at this phase of these proceedings is that (1) you take a fresh look at ozone and ozone technologies and the *latest science* substantiating its reasonably safe use; (2) your regulations be flexible enough to permit usage against both known and unknown contaminants impacting indoor environments for years to come, (3) your regulations allow for varying ozone usage amounts subject to perceived consumer needs even in indoor residential environments, provided there are reasonable warnings, disclosures or other safeguards in place, and (4) your regulations provide consumers with the broadest number of choices, as opposed to the least restrictive choices, for the protection of themselves and their families in their individual indoor environments.

More specifically, we submit that:

- Rules must make common sense
- Rules must be *free of politics*
- Rules must not be geared to selectively benefit the agendas of any interest group and their membership to the detriment of consumers
- Rules must be based on *real evidence*
- Rules must be based on *current science* and the *latest research*
- Rules on testing must be reasonable and not exclusionary
- Rules must provide consumers with legitimate safeguards, but in an appropriate measure using the “least restrictive means” (usage warnings, labeling requirements, etc.) so as not to limit the exercise of reasonable consumer choices
- Rules must allow for the broadest array of consumer product choices and encourage research and development for new product choices
- Rules must allow for the broadest consumer use of safe and proven ozone technologies, and at various levels based on the consumer’s determination of indoor air quality needs with appropriate and reasonable disclosure and warnings
- Rules should err on the side of *Consumer Choice*
- Rules should weigh the benefits of choice over lesser risks involved, so as not to restrict individual consumer options
- Rules must take into account the lack of any government control over pollutants and contaminants entering residential indoor air environments, and government’s relative inability to alert consumers in a timely manner to potentially dangerous contaminants entering residential indoor air environments

A brief comment on testing standards vs. less restrictive means of safeguarding consumer interests: During the legislative process we discovered that many known airborne contaminants that are considered extremely dangerous by the State are still permitted, including tobacco products, pesticides, chlorine, paint and paint thinner, acetone, bleach, fabric softener, certain candles, certain chemical air fresheners, oven cleaners and many other common household cleaners, etc. These products are openly sold and used, subject only to warning labels and disclosure requirements relating to indoor use in occupied spaces. Some of these products alone are responsible for more deaths (thousands a year) and sickness in California than from any reported use or misuse of ozone emissions from indoor air cleaners or purifiers, which to our knowledge has been zero. In fact, there are even more reported cases of airborne infection and deaths from hospital or health facility acquired infections that perhaps could have been reduced through the proper use of safe indoor air cleaners using optional ozonation, than from any reported use or misuse of ozone emissions from indoor air cleaners or purifiers. To suggest, as some *stakeholders* have, that consumers are *incapable* of reading or following warnings, if adopted, regarding ozone is absurd as this state sanctions serious known forms of contaminants to impact consumers, and even sanctions driving cars capable of exceeding lawful speed limits, using gas stoves capable of burning food and setting fires, and drinking alcohol levels capable of impairing ones ability to operate a motor vehicle.

The state also sanctions parents smoking in their homes, thereby exposing babies, toddlers, small children and other adults to toxic levels of second-hand tobacco smoke which has been scientifically proven to cause many breathing related problems including death from cancer and emphysema! Finally, the state sanctions pregnant mothers to smoke and drink alcohol knowing very well the potential of birth defects.

In lieu of rules to exclude safe indoor ozone technologies, the same level of warnings and label disclosures used for these other products should be more than acceptable! And these same procedures should be imposed on *all* indoor ozone emitting appliances and equipment, especially those whose emissions clearly would exceed the rules adopted by the Board (for example, photocopiers, office equipment and kitchen appliances), not just proven indoor air cleaners that are safe when used as directed!

Conclusion

The Board and Staff are at an historical precedent of laying what may be the only piece of California's Indoor Air Quality (IAQ) foundation for years to come. With no legislative precedents to date on addressing the entire IAQ picture, you have the challenge to implement a narrow charter in a way that can provide for the continuing needs of all California consumers; do not succumb to the pressures from narrow interest groups whose members and supporters may well have conflicting business agendas.

This is especially important since no governmental agency or scientific body can predict with any degree of certainty the nature, type and extent of potential indoor air contaminants that may be carried or transmitted through the air and into California indoor

environments, potentially from every single State in the United States, from every country in the World, regardless of distance, whether viral, bacteria, gaseous, chemical, biological, particulate or other form, whether natural or man-made, whether harmless or deadly, whether contagious or infectious, and whether treatable or not.

Even if the government could control and contain our borders, it is powerless to control or contain potentially harmful pollutants carried in the air that can freely enter our indoor environments. Indoor air pollution, which has been quoted by your own agency (EPA) as being many times worse than outdoor air, is just as much of a global problem as “global warming” and California consumers deserve the freedom to personally choose from all the viable technologies and products they believe will maximize their indoor air quality protection, now and in the years to come, at home, at work, at school, or any indoor environment they are inhabiting.

We submit that the overriding guidance for you to adopt in this rulemaking is one of protecting the broad interests of all consumers in dealing with known and predictable indoor air quality problems today, as well as those that may become problems in the future. Preparedness is critical, and rules must be flexible enough to foster the technological options that consumers can choose from. Any rule that would directly or indirectly inhibit, cloud or create uncertainty about *freedom of choice* involving the protection of one’s personal indoor air quality or that of one’s family, subject to certain broadly accepted and reasoned standards, must be rejected!

At the end of this important and historical process, what should remain in everyone’s mindset is that indoor air quality is all about consumers’ freedom of choice over the products that best meet their individualized needs, and the success or failure of this rulemaking process will be judged by how well it helps to legitimately take away consumers’ fears of what is in the indoor air they breath, and what resources they have to protect themselves and their families in what could be the coming indoor air pollution wars.

Sincerely,

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